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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91168862
Party	Defendant Bunte, Brady Bunte, Brady 108 Pacifica #300 Irvine, CA 92618
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Submission	Other Motions/Papers
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Signature	/bbb/
Date	12/01/2006
Attachments	MotionToCompelSHagarDepo.pdf (36 pages)(2236391 bytes)

Case: BUNTE-008M and BUNTE-010M
Mark: CABO AZUL and CABO NUTS
Trademark Applications

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78/468,593 and 78/551,176

Red Head Inc. dba Cabo Wabo)	Opposition Nos. 91168862 and 91168968
Enterprises, Inc.,)	
Opposer,)	
vs.)	
Brady Bunte,)	
Applicant.)	

MOTION TO COMPEL THE DEPOSITION OF SAMMY HAGAR AND TO
EXTEND THE DISCOVERY PERIOD

BOX TTAB - NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Applicant, Brady Bunte, hereby moves this Board for an Order to compel the deposition of Sammy Hagar, founder and president of Opposer, Red Head, Inc. Applicant further requests that discovery in this matter be extended for a period of sixty (60) days to allow sufficient time for follow-up discovery that may be necessary upon completion of Mr. Hagar's deposition.

Applicant has noticed the Deposition of Mr. Hagar. Applicant was initially advised that Mr. Hagar would not be available for the date scheduled, but that Mr. Hagar might be produced at another time. Applicant was later advised that Mr. Hagar would

not be available for deposition at any time in relation to this proceeding.

Mr. Hagar is the principal officer and part owner of Opposer since its inception. He is also a well established musician engaged in periodically performing at various locations. However, Applicant has reiterated its willingness to accommodate Mr. Hagar's schedule, which does not appear to be at issue at this time.

Opposer has produced Mr. Kauffman for deposition under Rule 30(b)(6). However, Mr. Kauffman has only been associated with Opposer for less than a year and has limited knowledge of many relevant matters. Moreover, Mr. Hagar, also referred to as MR. CABO WABO (Exhibit 2), has unique factual information regarding the adoption of the mark, and uses of CABO derivative marks over approximately twenty (20) years.

Referencing the attached excerpts of the Kauffman deposition transcript, (Exhibit 1), the transcript evidences the Mr. Kauffman's short tenure, his limited knowledge of information such as the owners of Opposer (Transcript Pg. 12); license agreements regarding Opposer's CABO WABO marks (Transcript Pg. 32-33); advertisement of Opposer's CABO WABO marks (Transcript Pg. 40); and prior litigation regarding Opposer's CABO WABO marks (Transcript Pg. 54).

Moreover, certain of the CABO WABO marks owned by Red Head, Inc., and asserted in by Red Head, Inc. in the Notice of Opposition were initially filed in the name of Mr. Hagar personally, and later assigned to Red Head, Inc., e.g. U.S. Registration No. 2,657,637 for CABO WABO CANTINA (plus design); U.S. Application Serial No. 76/235,335 for CABO WABO CANTINA; and U.S. Application Serial No. 76/235,335 for CABO WABO CANTINA. Mr. Hagar is likely to have knowledge regarding his ownership of those marks, and the basis of their assignment to Red Head, Inc.

The attached excerpts from the Cabo Wabo website further evidence the intimate association between the person of Mr. Hagar and the CABO WABO mark.

Given that intimate association of Mr. Hagar and the CABO WABO mark, his unique, first hand knowledge of factors respecting adoption and use of the CABO WABO mark and other matters, Applicant submits that Mr. Hagar's deposition is reasonably necessary for proper discovery of relevant facts in this proceeding.

Opposer has indicated that it would oppose this motion.

A Proof of Service to counsel for Opposer is attached hereto. This extension is not for the mere purposes of delay. Such request is made for purposes of providing the parties additional time to conduct discovery.

Please charge any fees which may be due in relation to this matter to Deposit Account No. 19-4330.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: December 1, 2006

By: 

Bruce B. Brunda
75 Enterprise, Suite 250
Aliso Viejo, CA 92656
(949) 855-1246
Counsel for Applicant
Brady Bunte

Exhibit 1

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
3 IN THE MATTER OF APPLICATION
4 SERIAL NO. 78/468,593 & 78/551,176
5

6 RED HEAD INC., dba)
7 CABO WABO ENTERPRISES, INC.,)
8 Opposer,)
9 vs.) Opposition Nos.
10) 91168862 and 91168968
11 BRADY BUNTE,)
12 Applicant.)
13
14

15 DEPOSITION OF STEPHEN B. KAUFFMAN
16 Santa Monica, California
17 Wednesday, October 18, 2006
18 Volume I
19
20
21
22

23 Reported by:
24 GWENDOLYN WILLIAMS
25 CSR No. 12713

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
3 IN THE MATTER OF APPLICATION
4 SERIAL NO. 78/468,593 and 78/551,176
5

6	RED HEAD INC, dba)	
7	CABO WABO ENTERPRISES, INC.,)	
8	Opposer,)	
9	Vs.)	Opposition Nos.
10	BRADY BUNTE,)	91168862 and 91168968
11	Applicant.)	

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Deposition of STEPHEN B. KAUFFMAN,
Volume I, taken on behalf of Applicant, at 2450
Colorado Street, Suite 400E, Santa Monica,
California, beginning at 1:02 p.m. and ending at
2:52 p.m. on Wednesday, October 18, 2006, before
GWENDOLYN WILLIAMS, Certified Shorthand Reporter
No. 12713.

1 APPEARANCES:

2

3 For Opposer:

4 GREENBERG, TRAUIG, LLP
5 BY: JAMES J. WOLFSON, ESQ.
6 Attorney at Law
7 3290 Northside Parkway, Suite 400
8 Atlanta, Georgia 30327
9 (678) 553-2272

9 For Applicant:

10 STETINA BRUNDA GARRED & BRUCKER
11 BY: BRUCE B. BRUNDA, ESQ.
12 Attorney at Law
13 75 Enterprise, Suite 250
14 Aliso Viejo, California 92656
15 (949) 855-1246

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WITNESS:

EXAMINATION

STEPHEN B. KAUFFMAN

BY MR. BRUNDA

5

EXHIBITS

DEPOSITION

DESCRIPTION

PAGE

Exhibit 1

Notice of Deposition
of Steve Kauffman

5

Exhibit 2

Opposer's Objections and
Responses to Applicant's
First Set of Requests
for Admission

56

INSTRUCTION NOT TO ANSWER

Page Line

31 2

4

1 Santa Monica, California, Wednesday, October 18, 2006

2 1:02 p.m. - 2:52 p.m.

3

4 STEPHEN BRUCE KAUFFMAN,

5 having been first duly sworn, was examined and

6 testified as follows:

7

8 THE WITNESS: Stephen with a P-H. Bruce.

9 K-A-U-F-F-M-A-N.

10

11 EXAMINATION

12 BY MR. BRUNDA:

13 Q. Mr. Kauffman, I am going to place before you
14 a copy of a Notice of Deposition here. We'll have this
15 marked as Exhibit One for you.

16 Have you seen that before?

17 A. I haven't seen this final form, no.

18 (The document referred to herein was
19 marked by the C.S.R. as Exhibit One for
20 identification and made a part of this
21 deposition.)

22 Q. But, you are here pursuant to that Notice of
23 Deposition; is that correct?

24 A. Right.

25 MR. WOLFSON: Bruce, before we get too far

5

1 along, can I just reserve the right for the
2 witness to read and sign. And also, similar to
3 the agreement we made when your client was
4 deposed, that we can keep the entire transcript
5 confidential "attorneys eyes" only for thirty
6 days, until such time as we designate what's
7 really confidential and what's not.

8 MR. BRUNDA: I don't think that is what we
9 did in Mr. Bunte's deposition. But, if that is
10 what you would like to do, I don't have a problem
11 with that.

12 MR. WOLFSON: I appreciate it.

13 MR. BRUNDA: Let's confirm that at the end
14 so we know where we are, given what we have said,
15 even if we need to do that.

16 MR. WOLFSON: Okay. But to answer your
17 question, I don't have a problem with that.

18 CONTINUED EXAMINATION

19 BY MR. BRUNDA:

20 Q. Mr. Kauffman, where do you live?

21 A. I live in Ventura, California. Do you need
22 the exact address?

23 Q. Please.

24 A. It's 436 Poli, P-O-L-I, number 301, Ventura,
25 California, 93001.

1 Q. Have you had your deposition taken before?
2 A. I have. Not in this case. But, in others.
3 Q. Approximately how many times?
4 A. Couple.
5 Q. Have you ever had it taken in relation to a
6 Cabo Wabo matter?
7 A. No.
8 Q. Have you ever had it taken in relation to a
9 trademark matter?
10 A. No.
11 Q. Well look then, you are probably familiar
12 with these rules, but let me kind of go over one or two
13 things with you just to refresh your recollection
14 here.
15 A. Sure.
16 Q. I am going to be asking you questions. You
17 are going to be responding to the questions. At the
18 end of the deposition, the Court Reporter will prepare
19 a transcript of our deposition which will have the
20 questions and the answers. And just as your Counsel
21 mentioned earlier here, we'll provide that to you and
22 you will have an opportunity to review it and make any
23 corrections that need to be made. But, in order to try
24 to minimize the need for corrections, we're going to
25 try to make sure that we ask the questions clearly.

7

1 And then if you don't understand them, please let me
2 know so that we will be able to be as accurate as we
3 can at this point in time.

4 A. Un hun.

5 Q. Okay?

6 A. Yes.

7 Q. Now you just said "un hun." That's another
8 one of the rules.

9 A. Yes.

10 Q. Just because it looks unclear on the record,
11 what you mean. Un hun and un un are not
12 distinguishable on the written record.

13 A. Right.

14 Q. So, I'll ask you if you will please try to
15 answer with a yes or no and try to avoid the ums and
16 the things like that.

17 A. Okay. Yes.

18 Q. And another reminder, to make the job easier
19 for the Court Reporter here, we are going to try not to
20 talk over each other.

21 A. Un hun. Yes.

22 Q. So, if you will wait until I finish my
23 question before you give your answer, that will serve a
24 couple of purposes here. For one thing, it will make
25 the Court Reporter's job easier. For another thing, it

1 will make sure that you understand what my complete
2 question is, and if it has some little twist at the end
3 of it, you won't be misled by it. And for a third
4 reason, your Attorney is going to be sitting here, and
5 you have to wait until I finish my question before he
6 gives an answer or makes an objection. So, it will
7 help him and you and I and the Court Reporter, if we
8 all try to just wait until I complete my question;
9 maybe just give it a one count and then give your
10 answer. Okay?

11 A. Yes.

12 Q. Another general procedural matter, is that
13 this is not an endurance contest for you. We'll try to
14 make this as comfortable as we can. You have drinks
15 behind you here. If you need to take a break, let me
16 know. If you need to use the restroom or something of
17 that sort, just let me know and we'll try to
18 accommodate you.

19 A. Un hun. Yes.

20 Q. Okay. Do you have any requirements to be out
21 of here by a certain time today?

22 A. No.

23 Q. Okay. Are you under any medication or any
24 other treatment that might affect the accuracy or
25 completeness of your answers here today?

1 A. No.

2 Q. What is your occupation?

3 A. I am a Consultant businessman.

4 Q. And, are you employed by somebody at this
5 point?

6 A. Cabo Wabo Tequila. I am the President of
7 that company.

8 Q. Is Cabo Wabo Tequila also referred to as Red
9 Head, Inc.?

10 A. It's a subsidiary of Red Head, Inc.

11 Q. Is it a wholly owned subsidiary of Red Head,
12 Inc.?

13 A. Yes.

14 Q. And, you are President of Cabo Wabo Tequila?

15 A. Yes.

16 Q. What is the business of Cabo Wabo Tequila?

17 A. Sales of Cabo Wabo Tequila worldwide.

18 Q. Are you involved in the sales of any food
19 products in the course of your employment by Cabo Wabo
20 Tequila?

21 A. No.

22 Q. Are you involved in the operation of any
23 restaurants or cantinas, as a consequence of your
24 position as President of Cabo Wabo Tequila?

25 A. No.

1 Q. Who are the other officers of Cabo Wabo
2 Tequila?

3 A. There are no other officers. Just myself.

4 Q. Do you do work for any other company, any
5 company other than Cabo Wabo Tequila?

6 A. No.

7 Q. Not at this time?

8 A. Not at this time.

9 Q. Directing your attention to Red Head, Inc.,
10 who are the officers of Red Head, Inc.?

11 A. That would be Sammy Hagar.

12 MR. WOLFSON: I caution the witness not to
13 speculate. If you know please say so. If you
14 don't, say I don't know.

15 THE WITNESS: I know Sammy Hagar.

16 BY MR. BRUNDA:

17 Q. Okay. Are you familiar with any of the
18 directors of Red Head, Inc.?

19 A. I am very familiar with Sammy Hagar. And so
20 yes, I am.

21 Q. Just Sammy?

22 A. Sammy, right.

23 Q. If I say Sammy, is that all right, referring
24 to --

25 A. Sure.

1 Q. -- Mr. Hagar.
2 Who are the Directors of Cabo Wabo Tequila?
3 A. That would be myself, Sammy Hagar.
4 Q. Just the two of you?
5 A. Un hun.
6 Q. Who are the owners of Cabo Wabo Tequila?
7 A. Sammy Hagar is.
8 Q. Is Mr. Hagar the one hundred percent owner of
9 Cabo Wabo Tequila?
10 A. He has a partner Marco Monroy. And, he owns
11 a percentage. I am not sure what percentage.
12 Q. To your knowledge, are Mr. Hagar and Mr.
13 Monroy also the owners of the Red Head, Inc.?
14 A. I don't know.
15 Q. To your knowledge, is Mr. Hagar an owner of
16 Red Head, Inc.?
17 A. Yes.
18 Q. To your knowledge, is Mr. Monroy an owner of
19 Red Head, Inc.?
20 A. I don't know.
21 Q. What is the address of your business
22 location?
23 A. It is now, let's see, it's on the same street
24 I live on. So I get them confused. It's-- let me get
25 my business card out. I never send anything there.

12

1 374 Poli Street, same street, Number 206, Ventura,
2 California, 93001.

3 Q. Are there any other offices of Cabo Wabo
4 Tequila, other than the Poli Street office?

5 A. No.

6 Q. Where is the offices of Red Head, Inc., to
7 your knowledge?

8 A. I don't know what address they use.

9 Q. Do you know the city?

10 A. Probably would be Novato, California.

11 Q. Have you been to that location before?

12 A. I have.

13 Q. Is that a business location?

14 A. I think it's his mailing address. And his
15 accountant, she runs an office there that is out of her
16 home.

17 Q. When you say "his," you mean Mr. Hagar's
18 accountant's address?

19 A. Un hun, yes.

20 Q. To your knowledge, does Mr. Hagar live in
21 that vicinity?

22 A. He does not. In that house?

23 Q. In the area?

24 A. In the vicinity, yeah. He lives in Northern
25 California.

1 MR. WOLFSON: I caution the witness again to
2 make sure you allow Counsel to finish his question
3 before you answer.

4 BY MR. BRUNDA:

5 Q. Are there any other offices of Red Head, Inc.
6 that you are aware of?

7 A. Not that I am aware of.

8 Q. Are there any other business locations of Red
9 Head, Inc., that you are aware of?

10 A. No.

11 Q. Any other business locations of Cabo Wabo
12 Tequila?

13 A. No.

14 Q. You are familiar with a cantina in Cabo San
15 Lucas known as Cabo Wabo; correct?

16 A. Yes.

17 Q. Is that a facility that is operated or owned
18 by Red Head, Inc., to your knowledge?

19 A. I don't know.

20 Q. So, is it a fair statement then to say that,
21 to your knowledge, the only business location of Red
22 Head, Inc., that you are aware of, business address of
23 Red Head, Inc. is in Novato?

24 A. Right.

25 Q. And, the only business address or location of

1 Cabo Wabo Tequila, that you are aware of, is the Poli
2 Street address in Ventura?

3 A. Correct.

4 Q. How long have you had a position as President
5 of Cabo Wabo Tequila?

6 A. Ten months.

7 Q. And, what are your responsibilities as
8 President of Cabo Wabo Tequila?

9 A. I oversee the marketing and sales operations
10 for the company, and deal with our importer; facilitate
11 all the ordering process through our importer with
12 Mexico; and the keeper of the brand and throughout the
13 world and in terms of overseeing it.

14 Q. Just for clarification, what do you mean by
15 keeper of the brand?

16 A. Well, to insure that we are on target; that
17 we're not doing anything that violates any laws; that
18 we are, the trademark itself is protected; that all the
19 components that are used in the promoting of the brand
20 are done with Sammy's approval, and nothing that would
21 be done that would damage his imagery or the image of
22 the brand.

23 Q. When you say oversee marketing, are you
24 responsible for the marketing?

25 A. I am responsible for the marketing, yes.

1 Attorney/Client information, I instruct the
2 witness not to answer the question based on what
3 I or the other attorneys have told you.

4 BY MR. BRUNDA:

5 Q. Let me rephrase it to hopefully avoid that
6 and make it easier for you.

7 Other than any communications that you may
8 have had with counsel or documents that you may have
9 received from counsel, have you been advised of any
10 third party usage of the term Cabo as a brand or name
11 or part of a brand or name, in relation to the sale of
12 any spirits, wine, or beer in the United States?

13 A. No.

14 Q. Okay. Thank you for your patience of letting
15 me get that whole question out.

16 A. This is not my nature, so it's hard for me
17 to--

18 Q. I can tell you it's not most people's nature,
19 including my own.

20 Are you aware of any food products sold under
21 any name including the term Cabo, in the United States?

22 A. No.

23 Q. And, I think you said earlier that you are
24 unfamiliar with any food products sold by Red Head,
25 Inc. in the United States; is that correct?

1 A. That's correct.

2 May I make an adjustment. When I met with
3 Bundy--

4 Q. Mr. Bunte?

5 A. Mr. Bunte, he told me that he was selling
6 nuts-- I didn't know this. He told me he was selling
7 Cabo nuts or something in the U.S.

8 Q. Okay.

9 A. Or chips or something. But I've never seen
10 them, and that is the only knowledge that I have that--

11 Q. Other than your discussion or information
12 about what Mr. Bunte sold or plans to sell, is it a
13 fair statement that you are not familiar with any
14 person selling, including Red Head, Inc., or Cabo Wabo
15 Tequila, that sells food products under any name
16 including the term Cabo?

17 A. Correct.

18 Q. Does Cabo Wabo Tequila utilize any marketing
19 consultants or agencies to assist in this business?

20 A. No.

21 Q. Are there any license agreements that you are
22 aware of between Cabo Wabo Tequila and Red Head, Inc.,
23 referring to use of the name Cabo Wabo?

24 A. I don't know.

25 Q. Are you aware of any license agreements with

1 any person including the term-- referring to the use of
2 the term Cabo Wabo?

3 A. No.

4 Q. Are you aware of any agreements between Mr.
5 Hagar and Red Head, Inc., or any other company,
6 concerning use of the term Cabo Wabo?

7 A. No.

8 Q. Are you aware that trademark applications for
9 terms including Cabo Wabo, have been filed in the name
10 of Mr. Hagar?

11 A. I am aware that we have filed for trademark
12 applications with a variety of names, and I am not sure
13 if it was under the name of Hagar or Red Head, Inc., or
14 what. But yes, I am aware of that.

15 Q. But, you are not aware of any agreements
16 internally within Red Head, Inc. or any of the officers
17 or directors of Red Head, Inc., concerning the use of
18 the Cabo Wabo name?

19 A. No.

20 MR. BRUNDA: Let's go off the record.

21 (Whereupon counsel went off the record.)

22 MR. BRUNDA: Back on the record.

23 CONTINUED EXAMINATION

24 BY MR. BRUNDA:

25 Q. Do the sales records of Cabo Wabo Tequila

1 Q. In what papers?

2 A. I'd have to go back into records. This is
3 sometime ago.

4 Q. Since you have been--

5 A. Not since I've been-- sorry.

6 Q. Okay. Since you have been employed by Cabo
7 Wabo Tequila, have they advertised any tequila in
8 newspapers?

9 A. No.

10 Q. Since you have been President of Cabo Wabo
11 Tequila, are you familiar with any newspaper
12 advertising by Red Head, Inc. during that period?

13 A. No.

14 Q. You said there was, to your knowledge, some
15 earlier newspaper advertising; correct?

16 A. Yes.

17 Q. And where would that-- Would records of that
18 newspaper advertising be available in your office?

19 A. May or may not be. We shipped our offices,
20 we lost some of the stuff of those-- that small type of
21 nature.

22 Q. You mentioned consumer magazines --

23 A. Right.

24 Q. -- as being one location where Cabo Wabo
25 Tequila has advertised its tequila.

1 Cabo Wabo was adopted for the sale of tequila?

2 A. I do.

3 Q. And, what is that understanding?

4 A. In the late eighties, '87, '88, Sammy was
5 down in Cabo San Lucas and happened to be coming home
6 one late night, and there was a guy walking down the
7 road and he was, you know, stumbling a little bit from
8 probably too much to drink. And Sammy says, hey look,
9 they are doing the Cabo wobble, and he shortened that
10 to Cabo Wabo. And then when he bought his bar, he
11 named it The Cabo Wabo.

12 Q. So, it's a fair statement then that the term
13 "Cabo Wabo" refers to the stumbling walking of a
14 person on a street in Cabo Wabo-- of a drunken person
15 walking in the street in Cabo San Lucas?

16 A. I think it's his way of identifying himself
17 as being distinctly different than everything else down
18 there. Yeah.

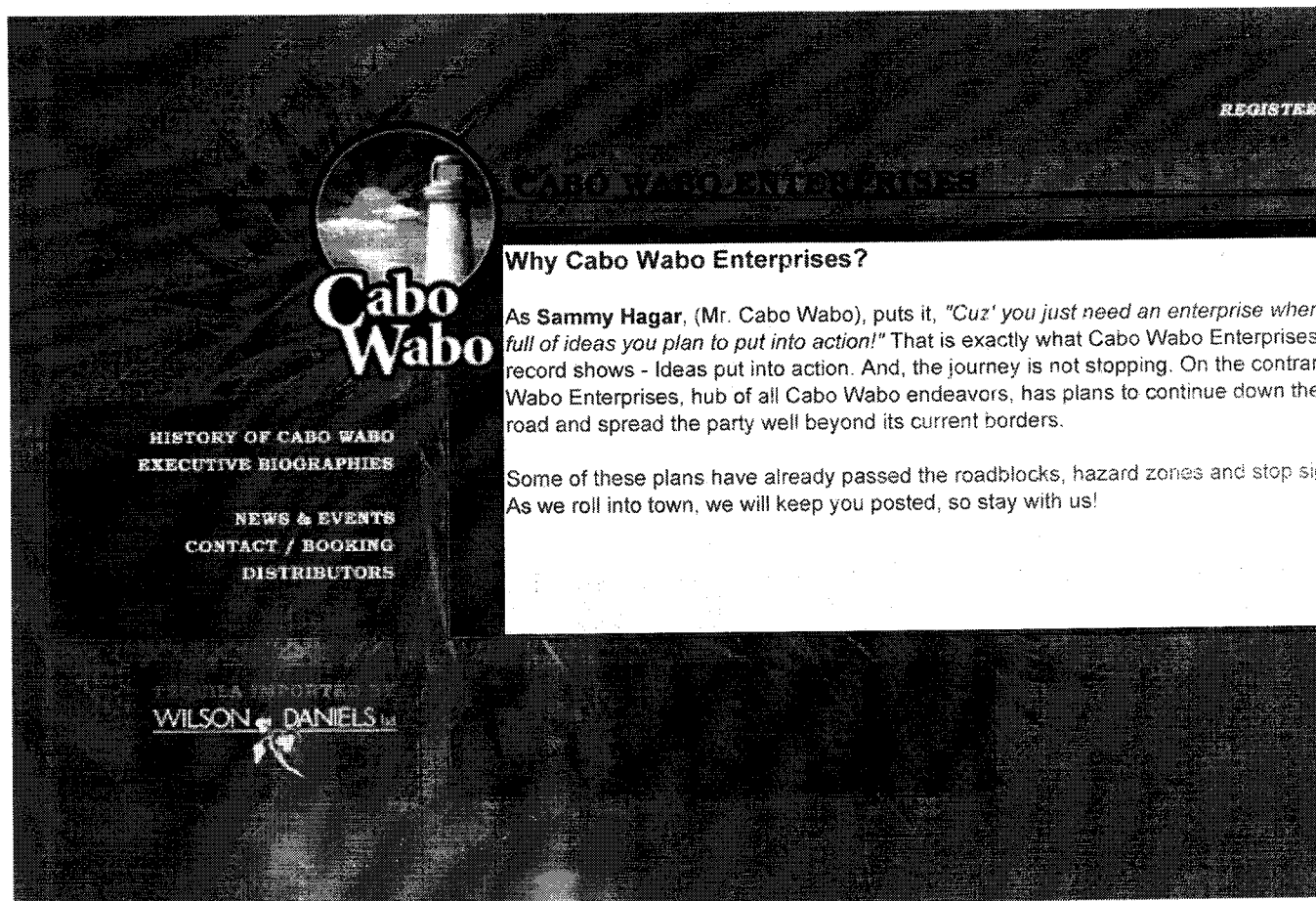
19 Q. Let me rephrase the question.

20 Is it a fair statement then that the term
21 "Cabo Wabo," was originally adopted in relation to
22 referring to a person perhaps having a little bit too
23 much to drink stumbling along the streets of Cabo San
24 Lucas?

25 A. Yes.

1 Q. Have you had--
2 A. I do sometimes.
3 Q. We all do. Let me start this again.
4 Are you aware of anyone who may testify as an
5 Expert in this proceeding, other than yourself?
6 A. No.
7 Q. Are you aware of any prior litigation
8 concerning the prior Cabo Wabo trademark?
9 A. No.
10 Q. Are you aware of any prior proceedings in the
11 trademark office regarding any third parties,
12 concerning use of the Cabo Wabo trademark?
13 A. No.
14 Q. Are you aware of any objections that have
15 been asserted to any third parties, regarding use of
16 the Cabo Wabo Mark or some other mark incorporated in
17 the term Cabo?
18 A. No.
19 Q. Are you aware of any objections that Cabo
20 Wabo Tequila or Red Head, Inc. may have received from
21 third parties regarding their use of the term--
22 regarding your use of the term Cabo Wabo?
23 A. No.
24 Q. Okay. Are you aware of any instances of
25 actual confusion between use of the term Cabo Wabo and

Exhibit 2



REGISTER

Cabo Wabo Enterprises

Why Cabo Wabo Enterprises?

As **Sammy Hagar**, (Mr. Cabo Wabo), puts it, "Cuz' you just need an enterprise when full of ideas you plan to put into action!" That is exactly what Cabo Wabo Enterprises' record shows - Ideas put into action. And, the journey is not stopping. On the contrary Wabo Enterprises, hub of all Cabo Wabo endeavors, has plans to continue down the road and spread the party well beyond its current borders.

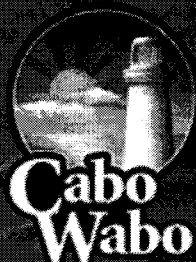
Some of these plans have already passed the roadblocks, hazard zones and stop sig
As we roll into town, we will keep you posted, so stay with us!

HISTORY OF CABO WABO
EXECUTIVE BIOGRAPHIES
NEWS & EVENTS
CONTACT / BOOKING
DISTRIBUTORS

WILSON DANIELS

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REGISTER



HISTORY OF CABO WABO
EXECUTIVE BIOGRAPHIES

NEWS & EVENTS
CONTACT / BOOKING
DISTRIBUTORS

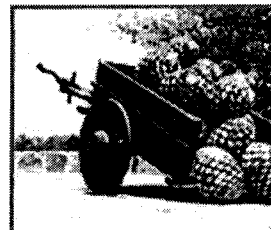
TEQUILA MENTOR BY
WILSON & DANIELS LLC

What is Cabo Wabo Enterprises?

Parent Company and hub of all current and future Cabo Wabo ventures and trade routes.

When did it start?

Established in 1998, a fork (make that an expressway!) in the road. When the pure pour found its way up north.



Where is it?

Headquartered at the western tip of I-80 in the San Francisco, Bay Area, with pro and ideas spanning the Globe.

Who is behind it all?

Sammy Hagar (Mr. Cabo Wabo and chief navigator)
Steve Kauffman (El Presidente and finance guy)
Marco Monroy (V.P. extraordinaire and keeper of the source)
Jorge Viana (Dr. Party)
Renata Ravina (the gatekeeper)
Meat and Potatoes, Inc. (Creative Directors / Design Aficionados)

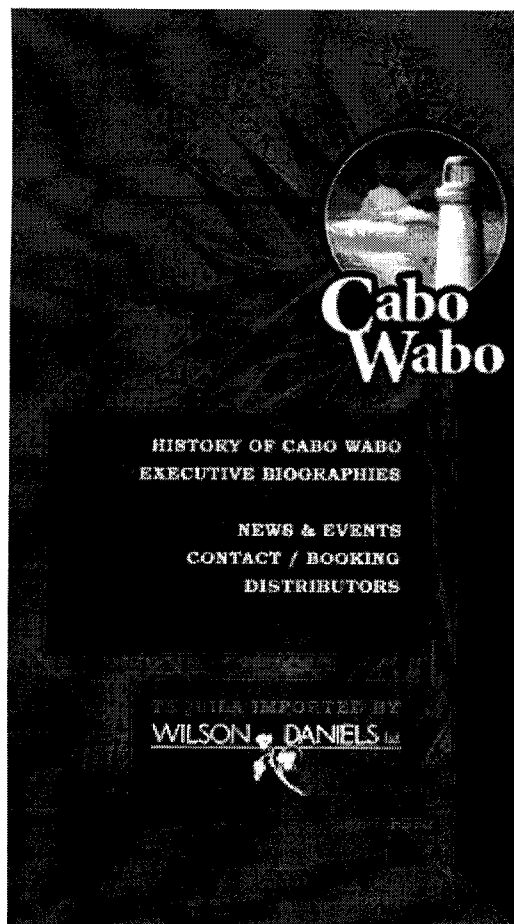
How did it start?



With a Roadmap inspired by real quality, ar lots of roadside assistance from friends and

Learn more about our premium **Tequila** or find out **where the land ends and the p begins!**

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Sammy Hagar, Mr. Cabo Wabo



Sammy is a professional rock and roll nightclub owner, and Tequila connoisseur with a passion for quality in everything he does.

Sammy's accolades include the journey as a singer and songwriter for Van Halen in the mid-80s through mid-90s, a highly successful solo career both before and after his run with Van Halen, an early stint with Ronnie Montrose. In the road of a career, Sammy's combined sales when considering the above records exceed 60 Million records sold! As for the most rockin' club in the world (Cabo Wabo Cantina of course) and producer of one of the truly premium Tequilas in the world (Cabo Wabo Tequila naturally), Sammy has established himself as an astute and extremely successful entrepreneur.

Sammy is the creative force and the true visionary behind the Cabo Wabo brand. With his inexhaustible energy, Sammy has mustered support and input from the world of music around him and has steered the budding Cabo Wabo enterprise into an expansive world of his own. Navigating from his simple roadmap for success (fun, purity and quality lead the lifestyle we all yearn for) Sammy's creative energy and prized endorsement create immeasurable value - whether it's his rock-n-roll, cantina or tequila Sammy brings a way of life that motivates people to party better, and more often.

Sammy sees no bounds for the Cabo Wabo journey. He can't stop looking around the bend for the next fork in the road that will bring a new inspired creation or idea to the aficionados of Cabo Wabo. Sammy has created and mapped out the ride that millions are sharing to get to a superior destination - *Cabo Wabo*.

On a quieter but no less impressive note, Sammy's obsession with the finer things has led to an amazing zest for fine wines, fine foods and elegance. He can be seen backstage cooking dinner with local celebrity chefs on numerous stops of his travels and his impressive wine collection has been featured recently in the Wine Spectator. Cabo San Lucas home, designed by business partner Marco Monroy, has been featured in The Houses of Los Cabos, a remarkable collection of beautiful Cabo homes, and a famous Maui, Hawaii home has been featured on many shows, including E! Entertainment Television.

It should be no surprise that Sammy is a man of few boundaries: a Red Rocker with beach blond hair, a tequila and wine connoisseur yet not an excessive drinker, a grandparent yet dynamic rock-n-roll star, a nightclub owner yet performer, and a man yet renowned entrepreneur... Step into the world of Sammy's Cabo Wabo and into a lifestyle that is a journey full of pure excitement and fun....Go there once, you'll know.

there twice!



Stephen B. Kauffman, President

Stephen B. Kauffman's long road to Cabo has been very long. Having traveled to thirty years among major Wine and Spirits industry companies, Steve served as president of Joseph Garneau, a division of Brown Forman, EVP of Marketing at E. F. Forman, VP of sales and marketing for Sebastiani Vineyards, EVP of Marketing for Seagram Wines.

Steve also has served as COO of the Century Council, CEO/President of Nautilus, was a stock broker for Dean Witter and got his marketing beginnings as a Brand Manager at Pfizer Laboratories. More recently he managed his own consulting company, Kauffman Consulting.

Steve fit the bill perfectly as years of experience and success that Steve brings to Cabo Wabo which made Sammy feel that the road would be easier traveled with Steve at the helm of tequila sales in the U.S.

Steve got his education at California State College at Fullerton where he earned a Bachelor of Arts majoring in marketing.

Marco Monroy, Vice President President, Cabo Wabo Cantina Mexico

Marco's long road to Cabo wasn't so long - it started in Cabo! Marco and Sammy (legend has it, on or about the grounds of the site of the Cabo Wabo Cantina) years before the ground was broken. Having known Sammy for 2 years or so as a contender and the ultimate winner in Sammy's competition to find the right architect for the Cantina, so he built the club.

Having seen the otherworldly appeal of the Cabo Wabo lifestyle well ahead of the general public, Marco largely left the world of architecture behind to become part-time and full-time manager of the Cabo Wabo Cantina. He also makes sure that Cabo Tequila production goes smoothly, and results in the *smoothest* product! Marco and Sammy have traveled the journey with each other for over 17 years now!

Thankfully, due to his love of architecture, Marco still carves out enough time to design select beautiful buildings and homes in Baja, Mexico. His renowned talent has been featured in various publications, including The Houses of Los Cabos, a magazine collection of Los Cabo homes, and his clients include many celebrities and owners of exquisite homes.

Jorge Viana, Director of Operations, Cabo Wabo Cantina Mexico

Jorge's long road to Cabo started at birth! Even as a new-born Bolivian infant in the arms of the first woman to hold him, it was clear from the start of Jorge's journey that he was destined to love a great party! What better vocation than vacation for Jorge, who is sure that your retreat to Cabo is complete with a fiesta that you will never forget; of course, you forget to come party at the Cabo Wabo Cantina! 365 days a year (except he accedes to our *demand* that he take a day or two off), rain or shine, in sickness or health, Jorge throws the party at the Cabo Wabo Cantina, and his party is world-famous! For good reason.

Jorge's dedication to the Cabo Wabo way of life really kicked in 1986. He embraced and advanced Sammy's inspiration (some time!) to build the Cabo Wabo Cantina, and fueled Sammy's various properties to consider as the building site. It is even a revolutionary influence that was responsible for the once-thought size of the Cantina, which now bursts at the seams when the doubt Jorge's commitment to the Cabo Wabo road of life ask tattoo on your next visit - you'll see why Jorge and Cabo Wabo are one and the same.

Renata Ravina, Controller

Renata has been driving with Sammy down the long road to Cabo for a long, long time. Since 1987 she has assisted him on the way with any and everything requiring assistance. Whether it be personal, personal business, music, tequila, Mexico, lists, houses, cars - you name it, Renata has been a part of the journey. She has been there to make sure Sammy's engines are firing on all cylinders and that his as smooth and peril-free as possible (in fact, Renata even had the foresight to make automobile mechanic, and he tunes and fixes all of Sammy's vehicles!). Renata has been along for just about all of the ride on the long road to Cabo Wabo and she continues on the journey that never ends!

Meat and Potatoes, Inc., Creative Directors for Cabo Wabo Enterprises

Meat and Potatoes, Inc. is a boutique design company specializing in print, packaging and advertising design. Todd Gallopo is the CEO and Creative Director of the studio located in Burbank, CA. Todd's road to Cabo began back in 1998 with Sammy's "Voodoo" album (MCA Records). He was the Art Director behind the packaging and marketing campaigns for the album. Since then Sammy and Todd's roads have been dotted with many visual highlights, collaborating on virtually all projects that relate to Sammy's Rock-N-Roll career as well as Cabo Wabo Enterprises. M&P has been the design force behind almost everything, from the re-design of the tequila packaging to the new "Forget Everything You're Trying To Forget About Tequila" advertising campaign.

M&P looks forward to continuing their creative journey by providing exceptional design and consulting services which consistently exceed Sammy's high expectations. They work hard and play hard, (with an occasional trip to Cabo to relax Cabo Wabo).

Elizabeth Blau

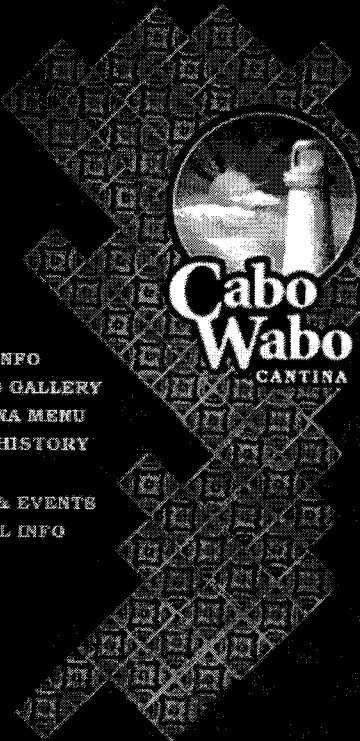
Elizabeth Blau possesses the qualifications for her new position above and beyond that of any regular restaurateur. Blau started her restaurant career as a teenager serving tacos at Pancho McGee's in West Hartford, Connecticut, a credential that couldn't be more in tune with her newest job. Blau later worked as a caterer while attending Georgetown and had her big break during a summer job at the James Beard Foundation in New York City where she met Le Cirque's owner Sirio Maccioni. Since then, Blau has opened several restaurants with Maccioni including Osteria del Circo and Le Cirque at the New York Palace. Later, she was recruited to the Mirage Resorts by Steve Wynn and eventually had a hand in revamping the famously dull Las Vegas food landscape.

Blau has since founded Elizabeth Blau & Associates, a consulting firm that specializes in strategic restaurant planning and development. She opened her first restaurant, Kitchen and Bar in 2003 at the Hard Rock Hotel and Casino in Las Vegas. She has spent the last five years as Senior Vice President of Restaurant Development for MGM/Mirage in Las Vegas responsible for the design, development, integration and promotion of new restaurant concepts for all MGM/Mirage Resort Properties. Most

recently, Blau opened Wynn Las Vegas as Executive Vice President of Marketing and Development for the property.

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CLUB INFORMATION

Who better to tell his story of the Cabo Wabo Cantina than Wabo himself, Sammy Hagar. And we quote:



The Cabo Wabo Cantina has generated enormous curiosity from the day it opened because of the time and place.

In 1990, Cabo San Lucas was pretty small for such an elaborate nightclub. Little town at the tip of Baja California grew into the prominent vacation destination today, it seemed as if I had looked into a crystal ball. The truth is that the convergence of the evolutionary and the reality of what it has become is based on small steps, a few mistakes, a few good people and tons of luck.

When I arrived in Cabo San Lucas for the first time in the early '80s, I fell in love with the town. It was just a fishing village then with only one major hotel. No phones, no TV, and no newspaper.

On my second visit, I met Jorge Viana, who now manages the cantina, and told him that I wanted to open a tequila bar with a small stage so I could perform there when the mood struck me. 'Any musician who wants to perform will be able to play there,' I told him.

Jorge regarded me with the politeness that Latins reserve for dreamers. But I persisted and only convinced him that I was serious after I brought him to the United States and had him as my guest at a concert in San Diego.



By then, I was already in Van Halen and had written the song "Cabo Wabo" with Van Halen. But the cantina was always my project and not the band's.

Jorge and I then started shopping for properties. When we had the property we

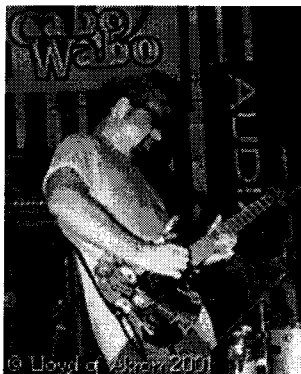
held a contest among local architects in Cabo San Lucas. The winner was Marco. I was happy that it was Marco, because he and I had already become friends. I brought his design to me in Los Angeles, I was impressed, but didn't notice the measurements were in square meters and not square feet!

During construction, Van Halen was on tour and Jorge was in charge of the design. The time I first saw the cantina it was almost completed. 'I can't believe it's this big,' Marco said. 'This is way too big for Cabo San Lucas. But, I like it.'

Of course, I wanted a monster opening that included MTV coverage. Since Van Halen was going to participate on my behalf to make the grand opening a major event, I wanted camaraderie. It seemed appropriate to offer the other members of the band full participation in the project. They accepted.

At first, because the cantina was a novelty and had received world-wide press, business was good and everyone made money. But management was shaky and soon became a white elephant. Then it began costing the band big money. Van Halen and other members of Van Halen no longer wanted any part of it.

But it was my baby and I wanted it even if it was a white elephant. I believed it just needed proper attention and better management.



When I assumed total control of the Cabo Cantina, Marco asked if he could come in because he believed in the project. This year he became my partner that year. The built and redecorated, the restaurant was moved up and a prime chef was brought in. Soon Marco had a large population involved and coming in to enjoy.

By then, the cantina had become the place in town that was already a destination of choice. It helped, too, that Cabo San Lucas has almost doubled in size since my first visit. It is no longer a sleepy village.

Because of my current partners in the operation and the enormous amount of business Cabo Wabo receives in the United States every year, the success and size of the cantina has become much more than I ever imagined it to be.

Besides MTV, the Cabo Wabo Cantina has been featured on the Travel Channel and many television shows. Voted as one of the Top 10 party spots in the world. Even so, it has grown into a monster that has a life of its own -- one big

Wow! All that from a dream!

Go there and enjoy yourself. That's the reason the cantina was built!

Sammy

Of course, no history of the Cabo Wabo Cantina is complete without the story of how it goes like this - driving into town one day, Sammy noticed a local resident "bashing about" one morning after--struggling to keep himself moving forward he wobbles into the fence nearby, Sammy thinks to himself, "Hey! That guy is Cabo Wabo!" And, so it is born from there--the name that has been with the Cabo Cantina for the entire journey!

Cabo San Lucas was just the end to a long dusty road from Tijuana before Sammy and the Cabo Wabo Cantina got here. A sleepy town with a love for fishing and relaxing. Locals and the tourists fish for a good time on land and try not to relax too much and end the journey with the Cabo Wabo Cantina.

The Cabo Wabo Cantina!
Where Land Ends and The Party Begins...



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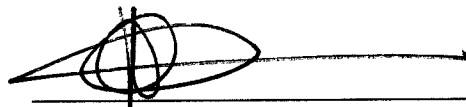
PROOF OF SERVICE

State of California)
) ss.
County of Orange)

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **December 1, 2006**, the attached **MOTION TO COMPEL THE DEPOSITION OF SAMMY HAGAR AND TO EXTEND THE DISCOVERY PERIOD** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Matt Pulliam
GREENBERG TRAURIG LLP
The Forum
3290 Northside Parkway, Suite 400
Atlanta, GA 30327

Executed on **December 1, 2006** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.

A handwritten signature in black ink, consisting of a stylized 'K' and 'C' with a horizontal line extending to the right.

Kimberly Carlsen